



Appeal Decision

Site visit made on 17 January 2023

by Ann Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/F5540/W/22/3298907

Corney Road, opposite 58 Corney Road, Chiswick W4 2RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00306/OPP58/COM1, dated 7 December 2021, was refused by notice dated 28 January 2022.
 - The development proposed is described as 'a proposed 5G telecoms installation: H3G Phase 8, 20m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the time of the Council's decision, amendments have been made to Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) relating to communications. However, the amendments made under The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022 (SI 2022/278) do not vary the requirements in relation to the prior approval for the development proposed.
3. The provisions of the GPDO require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The description of development set out in the banner heading above has been taken from the application form and decision notice, both of which describe the height of the proposed street pole as 20m. However, the submitted plan ref: HSW19890_HSW205_84936_W1067_GA_REV_A (265 Proposed Site Elevation), also listed in the decision notice, indicates that the height of the pole would be 18m. The appellant has confirmed the height of the street pole would be 18m. I have determined the appeal on this basis and I am satisfied that no party will be prejudiced by my so doing.
5. The Council has referred to development plan policies in its decision notice and assessment. The Council's delegated report identifies conflict with Policy EC4 of the Hounslow Local Plan 2015-2030 (the Local Plan), amongst other policies,

whereas the reason for refusal excludes this policy. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. As such I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation on:
 - the character and appearance of the area, with particular regard to the Old Chiswick Conservation Area;
 - the living conditions of nearby residential occupiers with regards to outlook; and,
 - if any harm would occur, whether this is outweighed by the need for the installation to be sited in the proposed location, taking into account any suitable alternative sites.

Reasons

Character and Appearance

7. The appeal site is located on part of a wide pavement adjacent to a cemetery and close to a roundabout forming the junction of several residential roads. The proposed street pole and ancillary cabinets would be positioned at the rear of the pavement alongside a boundary wall and railings enclosing the cemetery and close to other street furniture. The site and much of the surrounding area to the east is located within the Old Chiswick Conservation Area (OCCA). It is also adjacent to the Chiswick House Conservation Area (CHCA) to the west.
8. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act (1990) requires that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.' The Old Chiswick Conservation Area Appraisal (CA) provides an overview of historic developments and key components that contribute to the special interest of the conservation area. The significance of the OCCA is derived, in part, from its medieval core and largely Georgian riverside frontage and the 19th and 20th Century hinterland development.
9. The appeal locality is residential in nature and characterised by high architectural quality dwellings along Corney Road and well-proportioned, tree-lined residential streets. The open space created by the cemetery is an important part of the significance of the OCCA and it contains a number of Grade II Listed tombs and a war memorial. Furthermore, an important viewpoint from Corney Road looking northwards across the cemetery towards St Nicholas' Church is highlighted within the CA.
10. The trees within the cemetery and along Corney Road would provide some screening of the proposed pole from closer vantage points and the boundary wall and railings would act as a low-level backdrop to the equipment. Nevertheless, the monopole would be visible above the adjacent tree canopies, particularly when viewed in the skyline from the numerous roads meeting at

the roundabout at the end of Corney Road, particularly during winter months when there would be no leaves on some trees. Moreover, the presence of the pole towering above the surrounding trees would interrupt the vista along Thames Crescent and Corney Road towards the historic boundary wall and parkland of Chiswick House, which lies within the CHCA.

11. I note the nearby four-storey flatted development along Pumping Station Road; however, this is set back from the road frontage by landscaping and lies outside the OCCA boundary. It is seen in a different context to that of the open space created by the cemetery. Furthermore, whilst there are streetlights in the vicinity of the appeal site, there is not a strong vertical emphasis of street furniture in the area. Irrespective of the colour of the pole, by virtue of its significant height, thickness and utilitarian design, featuring additional clutter at the top, it would appear as a prominent and discordant feature within the surrounding area. It would be in stark contrast with the open space and historic context of the adjacent cemetery.
12. In addition, the cumulative presence of the equipment cabinets would add further bulk to the proposal and undermine the softening effect of the tree-lined street scene, which contributes to the positive character of the area.
13. I consider the visual harm caused by the proposal would substantially affect factors that contribute to the significance of this part of the OCCA, those being the quality of the cemetery open space and the surrounding well-proportioned, tree-lined residential streets. The proposal would thereby lead to less than substantial harm to the significance of a designated heritage asset. In these circumstances, paragraph 202 of the Framework sets out that the harm arising should be weighed against the public benefits of the proposal. I will return to this matter below.
14. On the above basis, the proposed development would fail to preserve or enhance the character or appearance of the OCCA. In so far as they are material considerations, I have also had regard to Policies CC1, CC2, CC4 and EC4 of the Local Plan which relate to issues of siting and appearance. In particular they require, amongst other things, that proposals should conserve and take opportunities to enhance any heritage asset and its setting in a manner appropriate to its significance. Similarly, the Framework is also a material consideration, insofar as it seeks to ensure that where new sites are required (such as for new 5G network), equipment should be sympathetically designed.

Outlook

15. Although the Council refer to an overbearing impact on occupiers of nearby residential properties in their decision notice, no further explanation or assessment has been provided in this regard. I note however that a number of local residents also refer to this matter. The nearest residential properties to the appeal site are located on the opposite side of Corney Road.
16. From my observations on site, the outlook from front windows and gardens of these nearby properties would retain a sufficient distance from the proposal given the road and wide tree-lined pavements to either side. Due to the profile of the mast, it would be unlikely to result in either an unacceptable overbearing impact or to unduly reduce outlook from windows or gardens associated with these properties.

17. The proposal would therefore accord with Policy CC2 of the Local Plan which seeks development, among other things, to provide adequate outlook and minimise overbearingness. However, that unacceptable effects in this respect would not arise is effectively neutral in my assessment of the scheme rather than weighing positively in favour of allowing the appeal.

Need and Suitable Alternative Sites

18. There is clear need for, and importance of, the rollout of the 5G network. Paragraph 117 of the Framework states, among other things, that applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by necessary evidence to justify the proposal. Where this is in relation to a new mast or base station, this evidence should include that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
19. Although the appellant states that site sharing or installing additional equipment on an existing building has been discounted, there is no evidence of this. Similarly, there is also little clear evidence of an assessment of where other operator's sites are or if they could be shared.
20. Moreover, the information submitted with regards to the six alternative sites that were considered by the appellant is of a limited nature, particularly whether or not alternative locations would have similar impacts on designated heritage assets. Indeed, the appellant's statement is conflicting in that at one section there is an acknowledgement the site lies within the OCCA whereas in another section it is stated the site is not in a conservation area. The appellant's statement also refers to one option put forward during the site search process, but no map or further information has been provided about this site.
21. When noting the visual sensitivities that would apply to a monopole erected within a conservation area and in close proximity to residential properties, it is reasonable to require clear and comprehensive supporting evidence. Whilst reasons (for discounting site options) such as proximity to schools and residential properties at other locations, insufficient pavement space and overhead services have been stated, these have not been substantiated through supporting documentation.
22. I acknowledge that, as with all 5G cells, the relevant search area is constrained and that in this case, the designated search area would likely include land within a conservation area and near to residential properties. I also note that an appeal has recently been dismissed for prior approval for an alternative mast in the local area at the junction of Corney Road and Edensor Road which was intended to meet the 5G requirement in the area¹. Nonetheless, on the information before me and from my site visit, the evidence does not convincingly demonstrate that a thorough review of possible options within the cell search area has been carried out or that the appellant has adequately explored whether there may be less harmful alternative sites. As such, it has not been satisfactorily demonstrated that there is a need for the development to be sited at the appeal site.

¹ Appeal Ref: APP/F5540/W/17/3172952

Other Matters

23. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
24. I have had regard to matters raised by the Highway Authority and local residents in relation to, amongst other things, impact of the proposal on nearby trees as well as highway considerations. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail. Nevertheless, even if there were no effect on the nearby trees or highway safety this would be a neutral consideration in my assessment of the appeal.
25. A concern has been raised regarding land ownership and the requirements of Condition A.3 of the GPDO. However, I note that the appellant has provided a copy of the relevant notice within their submission.

Balance and Conclusion

26. Paragraph 199 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the asset's conservation. I have found that the proposal would lead to less than substantial harm to the character, appearance and significance of OCCA. Heritage assets such as Conservation Areas are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In accordance with paragraph 202 of the Framework, the harm I have found in this regard should be weighed against the public benefits of the proposed development.
27. I consider that the appellant's evidence demonstrates a need for enhanced capacity and expansion in the area. The government is committed to supporting the deployment of next-generation mobile infrastructure. This is generally reflected in both the Framework and the Local Plan. I recognise the importance of good, fast, reliable, and cost-effective telecommunications infrastructure.
28. However, it has not been satisfactorily demonstrated that there is a need for the 5G network in this area to be boosted by the proposal at this site, and it has also not been shown that other more suitable sites are unlikely to be available. This tempers the weight that I can afford to the public benefits of the proposal, as it may be possible that those same benefits could be provided in a manner which would result in lesser harm. I therefore consider that the public benefits would not be sufficient to outweigh the less than substantial harm that I have identified, and the great weight that should be attached to the asset's conservation.

29. Consequently, for the reasons given above, I consider that the siting and appearance of the proposal would be unacceptable. I therefore conclude that the appeal should be dismissed.

Ann Veevers

INSPECTOR